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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,015	03/29/2000	Simoni Ben-Michael	42390.P7283	6254

7590 01/07/2005  
 Seth Z Kalson  
 Blakely Sokoloff Taylor & Zafman LLP  
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 Los Angeles, CA 90025-1026

EXAMINER
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SAM, PHIRIN

ART UNIT	PAPER NUMBER
2661	

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/538,015	<b>Applicant(s)</b> BEN-MICHAEL ET AL.	
	<b>Examiner</b> Phirin Sam	<b>Art Unit</b> 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-14 is/are allowed.
- 6) ☒ Claim(s) 1-6, 15, 16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 17 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
PHIRIN SAM

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The informal drawings are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Applicant is given a TWO MONTH time period to submit new drawings in compliance with 37 CFR 1.81. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a). Failure to timely submit replacement drawing sheets will result in ABANDONMENT of the application.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, 15, 16, 18, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,130,894 (hereinafter called "Ojard").

Ojard discloses the invention (**amended claims 1-3, 5, 6, and claim 4**) as claimed including a method for a PHY to resolve link frame collisions, the method comprising:

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- (i) the PHY attempting to transmit a link frame if the PHY has not transmitted a frame in the last  $x$  seconds, where  $x$  is a positive real number (see Figs. 3 and 5, elements 510 and 511, col. 2, lines 51-52, and col. 12, lines 10-12). Where PHY 300 attempt to transmit the frame onto shared medium as cited in col. 12, lines 10-12.
- (ii) if a frame collision is detected during step (i) (see Fig. 3, element 204, col. 2, lines 46-54, and col. 12, lines 10-12).

Ojard does not disclose the PHY attempting to transmit a link frame at a time interval after the last frame transmission attempt of the PHY has ended. However, Yang discloses the PHY attempting to transmit a link frame at a time interval after the last frame transmission attempt of the PHY has ended (see Figs. 2 and 3, col. 6, lines 50-67, col. 7, lines 1-32). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the attempting to transmit the frame at a time interval after the last transmission teaching by Yang with Ojard. The motivation for doing so would have been to provide to achieve high channel utilization without collision read on col. 7, lines 37-39. Therefore, it would have been obvious to combine Yang and Ojard to obtain the invention as specified in the claim(s) 1-6.

**Regarding claims 15, 16, 18, and 19, Ojard discloses a PHY comprising:**

- (1) a transceiver to attempt to transmit a first link frame if the PHY has not transmitted a frame for a time period (see Figs. 3 and 5, elements 510 and 511, col. 2, lines 51-52, and col. 12, lines 10-12). Where PHY 300 attempt to transmit the frame onto shared medium as cited in col. 12, lines 10-12.

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(b) a collision detector, wherein if a first collision is detected by the collision detector during the attempt to transmit the first link frame (see Figs. 2, 3, col. 2, lines 46-52).

Ojard does not disclose the PHY attempts to transmit a second link frame a time interval equal to an Inter Packet Gap (IPG) after transmission of the first link frame. However, Yang discloses the PHY attempts to transmit a second link frame a time interval equal to an Inter Packet Gap (IPG) after transmission of the first link frame (see Figs. 2 and 3, col. 6, lines 50-67, col. 7, lines 1-32). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the attempting to transmit a second link frame a time interval equal to an IPG teaching by Yang with Ojard. The motivation for doing so would have been to provide to achieve high channel utilization without collision read on col. 7, lines 37-39. Therefore, it would have been obvious to combine Yang and Ojard to obtain the invention as specified in the claims 15, 16, 18, and 19.

***Allowable Subject Matter***

4. Claims 7-14 are allowed.
5. Claims 17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-6, 15, 16, 18, and 19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Allison et al (U.S. Patent 6,393,457) discloses architecture and apparatus for implementing 100 MBPS and GBPS Ethernet adapters.

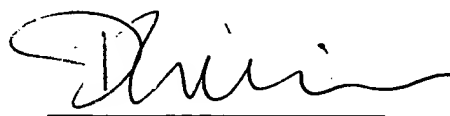
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on Mon-Fri, 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth N Vanderpuye can be reached on (571) 272 - 3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

Date: December 29, 2004

A handwritten signature in black ink, appearing to read 'Phirin', written over a horizontal line.

**PHIRIN SAM  
PRIMARY EXAMINER**